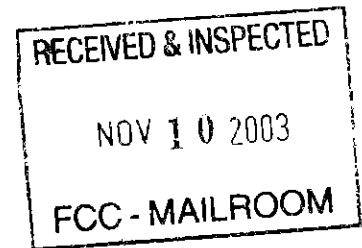


DOCKET FILE COPY ORIGINAL

Express Mail EU370165000US

Before the
Federal Communications Commission
Washington, D.C. 20554



| | | |
|--------------------------------------|---|-----------------------|
| In the Matter of the |) | File No. SLD - |
| |) | |
| Appeal of the Decision of the |) | |
| |) | |
| Universal Service Administrator by |) | |
| the |) | |
| |) | |
| Kanawha County School District |) | |
| |) | |
| |) | |
| |) | CC Docket No. 96 - 45 |
| Federal-State Joint Board on |) | |
| Universal Service |) | |
| Changes to the Board of Directors of |) | |
| The National Exchange Carrier |) | |
| Association, Inc. |) | CC Docket No. 97 - 21 |

Appeal
and
Request for Expedited Relief
on behalf of the
Kanawha County School District

November 5, 2003

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W. Suite TW-A325
Washington, D.C. 20554

0+11

This is an appeal from a decision by the Schools and Libraries Division of the USAC

Enclosed are the original and four copies of the Appeal. An extra copy is also enclosed.

Please time stamp the extra copy and return it to me in the enclosed self-addressed-stamped envelope.

(1) **Funding Commitment Decision Letter Appealed**

| | |
|--------------------------------|-----------------------|
| Form 471 Application Number | 343261 |
| Funding Year 2003 | 07/01/2003-06/30/2004 |
| Billed Entity Number | 126679 |
| Date of Funding Denial Notice. | October 21, 2003 |
| Date of Appeal | November 5, 2003 |

(2) **SLD Contact Information**

- (a) Currie A. Sutton
27600 Chagrin Blvd., Ste 260
Cleveland, OH 44122
Tel (216) 682 0169
Fax (216) 514 3337
- (b) Nathaniel Hawthorne, Attorney (To discuss this Appeal)
27600 Chagrin Blvd., Ste 265
Cleveland, OH 44122
Tel (216) 514 4798

(3) **Funding Request Numbers Appealed**

FRN-999900, FRN-999905, FRN-999909

(4) **SLD's Reason for Funding Denial of FRN 999900**

The SLD stated that funding is denied because

“30% or more of this FRN includes a request for unsubstantiated charges which are ineligible per program rules.”

(5) **The “30% rule” was incorrectly applied by the SLD.**

- a) The Kanawha County School District (Kanawha) prepared and timely filed a FCC Form 471 for telecommunications service with Alltel Communications, Inc. as the vendor. Out of the requested \$4,800.00 per month for telecommunications service, the Applicant supplied documentation of bills in the amount of \$1,390.25 and \$1,551.57. The SLD disallowed the difference stating that it was for ineligible services.
- b) **Exhibit A** is the “billing” that Kanawha submitted to the SLD.
- c) Kanawha. While the District’s request for funding was based on anticipated (estimated) telecommunications usage, Kanawha’s expenses should have been reduced rather than denied. **No E-Rate ineligible expenses were contained in the Applicant’s request.**
- d) The FCC’s 30% rule provides, *in relevant part*, “[i]f 30% or more of the dollar amount of the request in Form 471 Block 5 Item 23K is for ineligible services (including services for ineligible entities or uses), the PIA team will deny the entire Block 5 funding request, even if eligible components are part of the request. If less than 30% of the dollar amount of the request in Form 471 Block 5 Item 23K is for ineligible services, the PIA team will reduce the request by the cost of the ineligible components, and the Funding Commitment Decision Letter will cite the ineligible services for which funds were not committed. If the request is reduced, applicants and service providers must ensure that the SLD is not invoiced for the ineligible items. [Emphasis added] **Here, there are no ineligible expenses included in Kanawha’s USF request.**

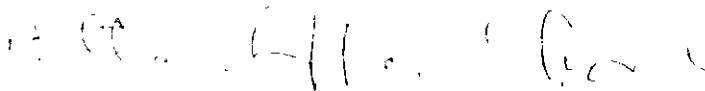
- e) Regarding FRN-999905, the amount Applicant requested was an estimated \$250 00 per month, Applicant substantiated \$161 16 per month and, again, there were no ineligible expenses **Exhibit B.**
- f) Regarding FRN-999909 the amount Applicant requested was \$1,334 20 per month, but substantiated \$851 60 per month There were no ineligible expenses **Exhibit C**
- g) Based on the 30% rule and the attached exhibits, there is no factual basis for any of the denials

Conclusion:

Kanawha is Requesting the Following Action by the FCC:

- (a) Within 90 days or less Order funding for the telecommunications services requested in the 471 Application, specifically FRN -999900, FRN- 999905, and FRN - 999909
- (b) Set aside funds to totally fund Kanawha's request.

Respectfully submitted,


Nathaniel Hawthorne

District of Columbia Bar No 237693
27600 Chagrin Blvd , Ste 265
Cleveland, OH 44122
tel 216/514 4798
e-mail nhawthorne@earthlink net
Attorney for
Kanawha County School District

EXHIBIT A

FAX COVER SHEET

To: Amanda Lopes, SLD

Fax: 1.973.599.6521

From: Currie A. Sutton

Date: 7-23-2003

Pages: 6 (Including Cover)

RE: Kanawha County School District, Application #343261

FRN 999900

See attached pages 1 through 5 for Alltel Cellular Service documentation.

I am still working on the documentation for FRN(s) 999845, 999905, and 999909 and, therefore, ask for additional time until July 29, 2003.

Please let me know if this extension will be allowed.

Thank you

**Currie A. Sutton, email: curries@ameritech.net
Tel: 216.682.0169 Fax: 216.514.3337**

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One Allied Drive
Building 4, Second Floor
Little Rock, AR 72202

Bill Date MAY 12, 2003
Account Number. CWB337R

ADDRESS SERVICE REQUESTED

KANAWHA COUNTY SCHOOLS

2003 MAY 20 PM 2:54

*Thank you for selecting
ALLTEL
as your communications
partner!*

①

#BWNGTCV
#CWB337R05127#
KANAWHA COUNTY SCHOO
JENNIFER
40 RHL BLVD
SOUTH CHARLESTON WV 25309
11111111111111111111

PO # 3100187

*If you have any
questions please
call*

1-800-255-8351
or *611

ALLTEL SERVICE AT-A-GLANCE

| | |
|---|-------------------|
| Previous Balance | \$4,133.72 |
| Payments Received through 05/12/03 | \$ 00 |
| Adjustments Applied through 05/12/03 | \$49.48 |
| Total Previous Balance - DUE IMMEDIATELY | \$4,183.20 |

CURRENT SERVICES



WIRELESS (78 lines) \$1,335.18

*Payments received
after 05/12/03 will
appear on your next
statement*

*TDD/TTY or TT service
for the hearing impaired
1-800-662-4960*

*ALLTEL now offers
online billing at
www.alltel.com
Your PIN to
register is
114681375*

Total Account Level Charges \$55.07

CURRENT CHARGES DUE IMMEDIATELY

\$1,390.25

TOTAL AMOUNT DUE

\$5,573.45

KEEP



2

Important Messages

*****Wireless Safety Week is May 19-23!*****

Visit www.alltel.com/customer_service/wireless_safety for wireless safety tips
 Remember safety is your most important call. Thank you for being a valued ALLTEL customer.

*****Find out how many minutes you've used!*****

*****Available now when you call 1-800-ALLTEL-1!*****

As of May 5, 2003, you can find out how many minutes you've used on your wireless phone any day, any time!

This service is absolutely free when you call 1-800-ALLTEL-1 (1-800-255-8351) from your landline telephone or *611 from your wireless phone and lets you get the latest record of how many of your monthly minutes you've already used on any of the ALLTEL wireless calling plans including Total Freedom, National Freedom, Regional Freedom and Local Freedom. This new service is our way of saying thanks for being a valued ALLTEL customer!
 Great things are happening at ALLTEL and upgrading our customer service is just one of them. We look forward to finding even more ways to keep you connected in the future.

Important Information for Customers Paying By Check

ALLTEL may convert your payments by check to an electronic automated clearinghouse (ACH) debit transaction. The debit transaction will appear on your bank statement although your check will not be presented to your financial institution or returned to you. This ACH debit transaction will not enroll you in any ALLTEL automatic debit process and will only occur each time a check is received. Any re-submissions due to insufficient funds may also occur electronically.

Please be aware that all checking transactions will remain secure, and payment by check constitutes acceptance of these terms.

We value your business and appreciate you selecting ALLTEL as your telecommunications provider.

ACCOUNT SUMMARY

| | | | |
|---------------------------------|-----------|----------|----------|
| • Previous Charges & Credits | | | |
| Previous Balance | | | 4,133.72 |
| • Payments Applied | | | |
| • Adjustments Applied | | | |
| Adjustment | Apr 18 03 | 349.48 | |
| Access Adj (Rerate/Chg issue) | May 09 03 | 300.00CR | |
| Balance Forward | | 4,183.20 | |
| • Current Charges & Credits | | | |
| Service | | 1,117.79 | |
| Main Office Connection | | 53.70 | |
| Usage | | 15.50 | |
| Group Usage Total 7,170.0 MIN | | 00 | |
| Airline Free 7,170.0 MIN | | 00 | |
| • Taxes, Fees & Surcharges | | | |
| • Other Charges and Credits | | | |
| FEDERAL USF | | 1.37 | |
| REG COST RCVRY FEE | | 82 | |
| 911 SERVICE | | 89.68 | |
| 911 SERVICE | | 35.42 | |
| TELCOMCNCTVY FEE | | 46.02 | |
| FEDERAL USF | | 29.95 | |
| Total Current Charges & Credits | | 1,390.25 | |
| Total Amount Due Immediately | | 5,573.45 | |

3

BILL PAGE INQUIRY
SELECT.....: PP BILL: 4 (1 TO 6) PAGE: 00001 LINE: 001 OKW
GRPACCT NBR.: CWB337R RP502000
SUB-ACCT NBR: SEQ: SVC: CDPD NEI.

Account Number: CWB337R Page 1 of 147
Billing Date: Apr 10, 2003
At-A-Glance DUE: IMMEDIATELY

| Previous Balance | Payments | Adjustments | Balance Forward | Current Charges | Total Amount Due |
|------------------|--------------|-------------|-----------------|-----------------|------------------|
| \$4,885.92 | | \$39.02CR | | \$1,886.00 | |
| | \$2,599.18CR | | \$2,247.72 | | \$4,133.72 |

Important Numbers

°Questions about your bill or service 24 hours a day.....1-800-255-8351

°Reach us from your cellular phone (a free call).....
.....*611

°TDD, TTY, or TT service for the hearing impaired.....1-800-662-4960

Important Messages

*****Add Security to Your Wireless Phone with Mr. Rescue*****

Run out of gas? Lock your keys in your car? Need a tow? Have a flat

1886.00
- 334.43 Equipment

1551.57

SELECT.....: PP BILL: 4 (1 TO 6) PAGE: 00002 LINE: 001 OKW
GRPACCT NBR.: CWB337R RP502000
SUB-ACCT NBR: SEQ: SVC: CDPD NEI:

Account Number: CWB337R Page 2 of 147
Billing Date: Apr 10, 2003

| | | |
|----------------------------------|-----------|-------------------|
| Account Summary | | |
| Previous Charges & Credits | | |
| Previous Balance | | 4,885.92 |
| Payments Applied | | |
| Payment | Apr 03 03 | 2,599.18CR |
| Adjustments Applied | | |
| Balance Transfer | Mar 24 03 | 39.02CR |
| Balance Forward | | 2,247.72 |
| Current Charges & Credits | | |
| Service | | 1,129.58 |
| Main Office Connection | | 53.70 |
| Main Office Connection (Partial) | | 2.68 |
| Equipment | | 334.43 |
| Usage | | 158.62 |
| GROUP USAGE TOTAL | 10,188.0 | MIN |

5

BILL PAGE INQUIRY
SELECT.....: NS BILL: 4 (1 TO 6) PAGE: 00002 LINE: 019 OKW
GRPACCT NBR.: CWB337R RP502000
SUB-ACCT NBR: SEQ. SVC: CDPD NEI:
Airtime Free 8781.0 MIN 0.00
Airtime Day 1145.0 MIN 0.00
Airtime Evening 203.0 MIN 0.00
Airtime Night 59.0 MIN 0.00
Taxes, Fees & Surcharges
FEDERAL USE 1.44
REG COST RCVRY FEE 0.82
911 SERVICE 89.68
911 SERVICE 35.42
TELCOM CNCTVTY FEE 46.02
FEDERAL USE 33.61
Total Current Charges & Credits 1,886.00
Total Amount Due: Immediately 4,133.72

EXHIBIT B

FAX COVER SHEET

To: Amanda Lopes, SLD

Fax: 1.973.599.6521

From: Currie A. Sutton

Date: 7-30-2003

Pages: 47 (Including Cover)

RE: Kanawha County School District, Application #343261

FRN 999845-AT&T

See attached pages 1 through 44 for AT&T Service documentation. The bills total \$3,749.19.

FRN 999905 – Unity/RAM Technologies, Inc.

See attached page 45 for Unity/RAM documentation. The bill totals \$161.16.

FRN 999909 – Page 1

See attached page 46 for Page 1 documentation. The bill totals 851.60.

If you have any further questions, please do not hesitate to call me.

Currie A. Sutton, email: curries@ameritech.net

Tel: 216.682.0169

Fax: 216.514.3337

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EXHIBIT C

♦ ♦ ♦ **INVOICE**

♦ ♦ ♦
TOTAL DUE 851.60

Salesperson Ron Lawrence
 Invoice number 100076
 Invoice date 6/10/03
 Customer ID 3716
 Terms DUE UPON RECEIPT
 Date shipped
 Shipped via
 FOB
 Prepaid / Collect
 Tax exempt
 Reason
 Exemption no

♦ ♦ ♦
SOLD TO

Name Kanawha Co Schools
 Address (line 1) Accounts Payable Supervisor
 Address (line 2) 200 Elizabeth St
 City, State or Prov Charleston, WV
 Postal code, Country 25311-2119
 Phone
 Fax
 Company name

♦ ♦ ♦
SHIPPED TO

Retype the following only if the name and address are not the same as the SOLD TO name and address

Name
 Address (line 1)
 Address (line 2)
 City, State or Prov
 Postal code, Country
 Company name

Please make checks payable to

PAGE 1

| REF NO | QTY | DESCRIPTION | PRICE EACH | TOTAL |
|--------|-----|------------------------------|------------|--------|
| | | Nov Airtime Payment 2001 | | |
| | | PC#100076 3100035 | | |
| | 140 | Air Time For 120- Pagers | 5.89 | 824.60 |
| | | Pagers 556-9301 Thru | | |
| | | 556-9399 | | |
| | | Pagers 556-9401 Thru | | |
| | | 556-9437 | | |
| | 9 | Group Call List | 3.00 | 27.00 |
| | 1 | Group Call No Charge Metro | N/C | N/C |
| | | Emergency | | |

SUBTOTAL 851.60

Sales tax %

**SHIPPING & HANDLING
PAYMENTS**

PLEASE PAY THIS AMOUNT 851.60

TERMS: Due Upon Receipt

46